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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/588,407	06/06/2000	Richard D. Blackmore	240-P-028	9445

26328 7590 05/23/2005

LAW OFFICE OF DAVID MCEWING  
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EXAMINER
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MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/588,407	<b>Applicant(s)</b> BLACKMORE ET AL.	
	<b>Examiner</b> Steven D. Maki	<b>Art Unit</b> 1733	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): see advisory action attachment.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 18 and 19.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1,2,4-6,12-16,20,22 and 26-28.

Claim(s) withdrawn from consideration: 7-11 and 23-25.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see advisory action attachment.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

ADVISORY ACTION ATTACHMENT

In view of the after final amendment filed 5-3-05:

**Claims 18 and 19 are allowed.**

In view of the after final amendment filed 5-3-05, the following objections /  
rejections have been withdrawn:

- (a) the objection to the specification in paragraph 5 of the final office action,
  - (b) the objection to the disclosure in paragraph 6 of the final office action,
  - (c) the 35 USC 112 second paragraph rejection of claims 33, 35, 36, 45 and 50,
- and
- (d) the 35 USC 112 first paragraph rejection of claims 29-47 and 50-52.

In view of the after final amendment filed 5-3-05, the following 112 rejections  
remain:

- (1) **Claims 26-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. See paragraph 2 of the final office action.**
- (2) **Claims 26-28 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. See paragraph 4 of the final office action.**

In view of the after final amendment filed 5-3-05, the prior art rejections are as  
follows:

- (A) **Claims 1 are 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies (US 5259901) in view of Hollingsworth (US 5266137).** As to claim 1, the subject matter of the non-metallic electrically conductive fibers comprising "carbon fibers, graphite fibers, carbon filaments or

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graphite filaments" was addressed in paragraph 8 of the final office action; Hollingsworth suggesting the use of carbon fibers as electrical resistive heating elements.

**(B) Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al in view of Hollingsworth as applied above and further in view of Europe '761 (EP 432761), Guenthner et al (US 5,216,085) or Rianda (US 4,792,374).** Europe 761, Guenthner et al and Rianda are applied as in paragraph 9 of final office action.

**(C) Claims 1-2, 6, 12-13 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '334 (JP 2-150334) in view of Japan '161 (JP 6-234161) or Japan '323 (JP 2-158323) and in view of Hollingsworth (US 5266137) and optionally further in view of at least one of Wood et al (US 5706861) and Guenthner et al (US 5216085).** As to claim 1, the subject matter of the non-metallic electrically conductive fibers comprising "carbon fibers, graphite fibers, carbon filaments or graphite filaments" requires the use of Hollingsworth and was addressed in paragraph 11 of the final office action; Japan 334 teaching the use of non-metallic electrically conductive fibers for resistive heating of an inflatable heating device and Hollingsworth suggesting the use of carbon fibers as resistive heating elements.

**(D) Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '334 in view of Japan '161 or Japan '323 and in view of Hollingsworth and optionally further in view of at least one of Wood et al and Guenthner et al as applied above and further in view of Renaud (US 4861634).** Renaud is applied as in paragraph 12 of the final office action.

**(E) Claims 4-5 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '334 in view of Japan '161 or Japan '323 and in view of Hollingsworth and optionally further at least one of Wood et al and Guenthner et al as applied above and further in view of Baker et al (US 4191383) and optionally Rankin (US 1362351) and Renaud (US 4861634).** Baker et al, Rankin and Renaud are applied as in paragraph 13 of the last office action.

**(F) Claims 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '334 in view of Japan '161 or Japan '323 and in view of Hollingsworth and optionally further in view of at least one of Wood et al and Guenthner et al as applied above and further in view of Lippiatt (US 5,199,463).** Lippiatt is applied as in paragraph 14 of the final office action.

Remarks

Applicant provides no new arguments as to the 112 rejections against claim 26.

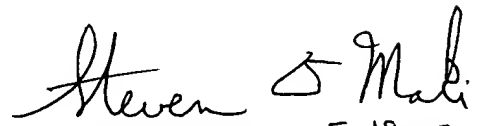
Applicant provides no new arguments as to the 103 rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki  
May 18, 2005

  
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5-18-05